

In The United States District Court
for The Northern District Of Illinois
Eastern Division

DOCKETED
NOV 15 2002

INTERNATIONAL TYPEFACE
CORPORATION, a New York Corporation,

02C 8256

Plaintiff,

JUDGE KENNELLY.

vs.

No.

ADOBE SYSTEMS INCORPORATED,
a Delaware corporation,

Defendant.

MAILED 11/13/02 BY [signature]

**COMPLAINT FOR DAMAGES
AND DECLARATORY RELIEF**

ORIGINAL

NOW COMES the plaintiff, INTERNATIONAL TYPEFACE CORPORATION, by its attorneys, Paul F. Stack and Robert A. Filpi, and complaining of defendant, ADOBE SYSTEMS INCORPORATED, defendant herein, alleges as follows:

The Parties

1. Plaintiff, INTERNATIONAL TYPEFACE CORPORATION ("ITC"), is a New York corporation with its principal place of business in Wilmington, Massachusetts, with offices in Elk Grove Village, Illinois. It is engaged in the business of licensing computer software programs that produce machine-readable typeface designs on computer screens, printers, and other output devices.

2. Defendant, ADOBE SYSTEMS INCORPORATED ("Adobe"), is a Delaware corporation with its principal place of business in San Jose, California. It is

authorized to do business and does business in the State of Illinois where it is deemed a resident under Section 1391(c) of Title 28, United States Code.

Jurisdiction

3. This Honorable Court has jurisdiction over the subject matter of this action pursuant to Title 17, United States Code, Sections 501(a) and (b); Title 28, United States Code, Sections 1331 and 1338(a); and the Federal Declaratory Judgments Act, Title 28, United States Code, Section 2201. Additional sources of jurisdiction for Count II and III include that the parties are citizens of different states and the matter in controversy exceeds the sum of \$75,000 exclusive of interest and costs, Title 28, United States Code, Section 1332, and under supplemental jurisdiction, Title 28, United States Code, Section 1337.

4. Venue properly lies in this district pursuant to Title 28, United States Code, Section 1391(b)(1) and (2) in that Adobe is a resident of the Northern District of Illinois for purposes of venue and a substantial part of the events giving rise to the cause of action occurred in the Northern District of Illinois.

Count I

Declaration of Rights of Ownership of Font Software for ITC Typefaces

5. A computer program that generates human readable typeface designs when used in connection with appropriate hardware and software is commonly known in the computer industry as a font.

6. Embedding is a technological process that occurs when data comprising all or part of a font used to create an electronic document is incorporated into such document.

7. On or about February 26, 1991, ITC and Adobe entered into an agreement styled "Restated and Amended License Agreement". A true and correct copy of such Restated and Amended License Agreement is attached hereto and marked as Exhibit "A". The Restated and Amended License Agreement, and all amendments thereto, are collectively referred to herein as the "License Agreement."

8. ITC is and was the owner of rights in certain typeface designs and their associated artwork, digitized renderings, and trademarks (the "ITC Typefaces"). Under the License Agreement, ITC granted Adobe a license to create "Font Software" of the ITC Typefaces in a format proprietary to Adobe and to distribute that Font Software on a royalty-bearing basis.

9. The License Agreement provides in relevant part: "[a]ll ITC Typefaces will remain at all times the sole and exclusive property of ITC, subject only to the rights granted herein."

10. "Font Software" is defined under the License Agreement as "the digitally encoded software in outline form for a particular Typeface consisting of the Typeface, metrics files, the screen display version of the Typeface, associated documentation, and any Media on which such software may be recorded or transmitted."

11. Pursuant to the terms of the License Agreement, ITC is the owner of all Font Software for ITC Typefaces, subject only to Adobe's license rights under the License Agreement. Among ITC's rights as owner are the rights to register and enforce its copyrights in the Font Software for ITC Typefaces.

12. Adobe has registered, without ITC's permission, at least 20 copyrights in the United States Copyright Office for Font Software for ITC Typefaces. By these registrations, Adobe wrongfully claims that it is the owner of the copyright in the Font Software for ITC Typefaces.

13. Adobe has been notified of ITC's claim of ownership of the Font Software for ITC Typefaces, has refused to acknowledge ITC's claim of ownership of the Font Software for ITC Typefaces, and wrongfully asserts that Adobe is such owner.

14. An actual controversy exists between Adobe and ITC regarding the ownership of the copyrights in the Font Software for ITC Typefaces.

15. ITC is entitled to a declaration that it is the exclusive owner of all rights in the Font Software for ITC Typefaces, except for documentation created by Adobe that is not within the scope of the copyright for such Font Software.

NOW THEREFORE, ITC prays for this Court to grant it the following relief:

- (A) A declaration that ITC is the owner of copyrights in the Font Software created pursuant to the License Agreement;
- (B) An order directing Adobe to transfer to ITC all copyrights registered in the United States Copyright Office and elsewhere by Adobe for the Font Software created pursuant to the License Agreement;
- (C) An award of costs and attorneys' fees; and
- (D) Entry of an order granting such other and further relief as the Court deems meet and just.

Count II

Breach of Contract License Agreement Scope of Use

16. Plaintiff realleges paragraphs 1-15 of the Complaint.
17. Under the License Agreement, ITC granted a non-exclusive license to Adobe to convert certain Typefaces owned by ITC into Font Software.
18. Under the License Agreement, ITC further granted a non-exclusive license to Adobe to distribute the Font Software "for Use by End Users, and for no other purpose." An End User is defined by the License Agreement as "a direct or indirect customer of Adobe . . ."
19. In a letter dated April 22, 1993, ITC agreed to amend the License Agreement to clarify that the Font Software made be embedded in a document and distributed for the purpose of viewing and printing the document. A copy of the April 23, 1993, letter is attached as Exhibit "B" hereto.
20. At Adobe's request, on or about January 1, 1994, ITC entered into an amendment to the License Agreement ("1994 Amendment"). A true and correct copy of the 1994 Amendment is attached hereto and marked as Exhibit "C."
21. The 1994 Amendment allowed Adobe to distribute Font Software to "Licensed Units," defined as five computers and an output device, or a greater number depending upon the number of Typefaces distributed as Font Software. The 1994 Amendment also permitted Adobe to license Font Software to "multiple users or sites, whether or not on servers, over a local area, wide area, or other network."

22. The Internet is a system of linking networks. The Internet is not a network within the common meaning of that term, nor is it a network within the meaning of that term as it is used in the 1994 Amendment.

23. After the 1994 Amendment, Adobe distributed Font Software pursuant to an end user license agreement ("EULA") that permitted individuals who acquired Font Software to use such Font Software in a manner consistent with the License Agreement, as amended. A copy of this EULA is attached as Exhibit "D" hereto.

24. In late 2001, ITC learned that an entity was embedding Font Software in an electronic document for distribution over the Internet to the public. ITC sent a letter dated January 3, 2001, notifying this entity of the improper use of Font Software. After a telephone conversation with a representative of this entity, ITC sent a second letter dated January 12, 2001, asking the entity to stop the misuse of Font Software.

25. On January 15, 2001, without ITC's knowledge or consent, Adobe issued a new EULA. The new EULA was deliberately confusing and could be interpreted as suggesting that the entity's use of the Font Software was within the scope of the new EULA. A copy of the new EULA is attached as Exhibit "E" hereto. On January 16, 2001, the entity's lawyer responded to ITC that his client's use was within the scope of Adobe's EULA.

26. Despite continuous communications between Adobe and ITC, Adobe did not then notify ITC of its use of the new EULA.

27. Adobe's promotion and enabling of distribution of Font Software beyond licensed networks to individuals who are not End Users, including but not limited to

members of the public who are able to access an electronic document with the embedded Font Software through the Internet, are breaches of the License Agreement.

28. At ITC's insistence, Adobe and ITC began negotiations for resolution of the dispute as to distribution of embedded Font Software to individuals who were not End Users and, in particular, to the public who were able to access the electronic document with the embedded Font Software through the Internet. Negotiations occurred from time to time from late 2001 to the summer of 2002.

29. Under the assumption that ITC and Adobe were at a deadlock on this dispute, on June 28, 2002, ITC gave written notice of breach to Adobe pursuant to paragraph 5.2 of the License Agreement. Under such paragraph 5.2, Adobe had sixty days to cure the breach (the "Cure Period").

30. After receipt of the written notice of breach, at Adobe's request negotiations resumed and the parties entered into several written agreements tolling the Cure Period.

31. Adobe and ITC agreed to a meeting at Adobe's offices in San Jose, California, on August 21, 2002, for the purpose of negotiating a resolution of their dispute. A meeting occurred at that time and place and, at the end of the meeting, all major issues regarding the embedding of the Font Software were resolved between ITC and Adobe.

32. Shortly thereafter, Adobe's management decided to reject the settlement reached on August 21, 2002, but deliberately elected not to inform ITC of such decision. Instead, on August 27, 2002, James Hecger, a Senior Vice President of Adobe and a member of Adobe's negotiation team, left a voice mail message with Ira Mirochnick, a Senior Vice President of ITC and a member of ITC's negotiation team, asking for a "half-day" meeting

in Chicago to "bang this thing out." At Adobe's request, the meeting occurred at the O'Hare Hilton on September 3, 2002. ITC's negotiating team, including its outside counsel, attended this meeting. At that time and place, Adobe's representatives informed ITC's representatives that Adobe was withdrawing the settlement of August 21, 2002, and was proposing a resolution of the dispute already rejected by ITC. When ITC's negotiating team flatly rejected reconsideration of the previously rejected proposal, Adobe's representatives asked for time to "caucus" with each other and to make a telephone call. ITC's representatives stepped outside of the negotiating room for a period of time in compliance with Adobe's request. In ITC's absence, Adobe's representatives told their attorneys to immediately file a complaint already prepared in the United States District Court for the Southern District of California. When ITC's representatives came back into the room, nothing was said about the lawsuit that was simultaneously being filed in San Jose, California, and the meeting adjourned. ITC did not learn of the lawsuit until it was contacted by the media the following day.

33. The last day of the Cure Period, as tolled, was October 16, 2002.

34. Adobe did not cure its breach within the Cure Period and has continued to refuse to do so.

WHEREFORE, ITC prays:

A. For a determination that Adobe has materially breached the License Agreement and that its rights under the License Agreement are terminated as of October 17, 2002;

- B. For a judgment in the amount of the damages sustained by ITC as a result of Adobe's breaches;
- C. For its attorneys' fees and costs; and
- D. For such other and further relief as is meet and just.

Count III
Breach of Contract License Agreement
Editable Embedding

- 35. Plaintiff realleges paragraphs 1-34 of the Complaint.
- 36. On June 15, 1993, Adobe introduced a computer program styled "Acrobat." One feature of Acrobat is that it allowed a user to convert an electronic document into a "portable document format" ("PDF"). The converted PDF document could then be distributed through networks to recipients who can display and print a copy of the transmitted document on their computer screen or printer, so long as the recipients have installed on their computer a software program corollary to Acrobat and distributed by Adobe.
- 37. Acrobat has the functional ability to allow an End User to embed all or part of the font used to create the original document into a PDF document. This embedding feature allows the recipient of a PDF document to replicate the exact typeface design used in the creation of the original document without having the font otherwise resident on his or her computer or printer.
- 38. The License Agreement, as amended, grants an End User the limited right to create a PDF document embedded with Font Software and distribute that document

electronically through a network, enabling the recipient of the document to use the Font Software for printing and viewing purposes only.

39. Adobe released a later version of Acrobat, "Acrobat 5.0," on March 21, 2001, and began distributing it through the same distribution chain that it used to distribute Font Software. Acrobat 5.0 is distributed with the EULA previously identified and attached hereto as Exhibit "E."

40. Acrobat 5.0, used in connection with the Form Tool function, among others, permits the embedding of Font Software in a PDF document in an editable format ("Editing Technology"). By use of the Editing Technology within Acrobat 5.0, an End User can convert an electronic document into PDF format and distribute that document through a network or through the Internet. The recipient of such a document can then use the Font Software to edit that document or create a new document, without having the Font Software otherwise resident on his computer or printer.

41. The Editing Technology within Acrobat 5.0 enables End Users to distribute Font Software in an editable format. Accordingly, the inclusion of the Editing Technology is a material breach by Adobe of the License Agreement.

42. Under the License Agreement, Adobe may distribute Font Software for ITC Typefaces so long as the End User agrees to a written EULA containing the same limitations on use of the Font Software as agreed to by Adobe.

43. The current EULA used by Adobe in the distribution of Acrobat 5.0 Font Software for ITC Typefaces was amended on January 15, 2001, to add the following paragraph:

You may embed the font software, or outlines of the font software, into your electronic documents to the extent that the font vendor copyright owner allows for such embedding. The fonts contained in this package may contain both Adobe and non-Adobe owned fonts. You may fully embed any font owned by Adobe. Refer to the font sample sheet or font information file to determine font ownership. See the Documentation for location and information on how to access these sheets and files.

44. Adobe's EULA requires End Users to independently determine the "font vendor copyright owner" of a font from a "font sample sheet or font information file" and then seek out that entity to determine the font's embedding capabilities. This process is confusing and is intentionally ineffective in protecting ITC's right not to have its fonts embedded in an editable format.

45. Adobe has publicly asserted in the Font Software and elsewhere that it is the "copyright owner" of the Font Software while ITC is clearly the "font vendor." Accordingly, to End Users, the description "font vendor copyright owner" is an oxymoron, at least as applied to Font Software for ITC Typefaces, since Adobe concedes that ITC is the "font vendor" but Adobe maintains it is the "copyright owner."

46. Adobe's inadequate EULA and incorrect copyright strings clearly lead an End User to incorrectly assume that the Font Software is "fully embeddable," in violation of the License Agreement.

47. A confusing and contradictory EULA cannot adequately bind End Users, as required by the License Agreement, and therefore, violates such agreement.

48. Adobe distributed an Adobe software product through the Website, entitled "Create-A-Banner." Create-A-Banner allowed individuals to use Font

Software on an Adobe server from a remote location without obtaining a sublicense from Adobe or paying the required royalty.

49. Adobe promoted at least one third-party product through the Website, entitled "PitStop Pro." Pitstop Pro allows a recipient of a PDF document to edit that document, without having the Font Software otherwise resident on his computer or printer.

50. Through the promotion and distribution of Create-a-Banner and Pitstop Pro, Adobe violated the License Agreement and aided, abetted, facilitated and encouraged violation of the License Agreement.

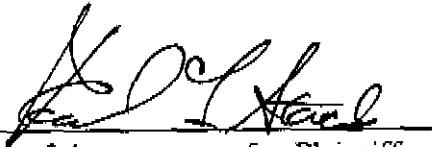
51. By reason of the allegations set forth above, Adobe has committed material breaches of the License Agreement and has caused great damage to ITC by depriving ITC of royalties to which it was entitled and by aiding, abetting, facilitating and encouraging violations of the License Agreement.

NOW, THEREFORE, ITC prays that this Court grant it the following relief:

- (A) Entry of a judgment requiring Adobe to pay ITC damages to be determined by this Court;
- (B) Entry of an order requiring Adobe to remove its Breaching Technology;
- (C) An award of costs and attorneys' fees to ITC; and
- (D) Entry of an order granting such other and further relief as the Court deems meet and just.

INTERNATIONAL TYPEFACE CORPORATION

By:


One of the attorneys for Plaintiff

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JURY DEMAND

Plaintiff, INTERNATIONAL TYPEFACE CORPORATION, demands trial by jury of all issues so triable.



K. D. Black
One of the attorneys for Plaintiffs

Notification of Affiliates
Disclosure Statement

The ultimate parent of International Typeface Corporation is Agfa-Gevaert N.V., a Belgium company.

Exhibit A



RESTATED AND AMENDED
TYPEFACE LICENSE AGREEMENT

This LICENSE AGREEMENT ("Agreement") is between International Typeface Corporation, a New York Corporation ("ITC") and Adobe Systems Incorporated, a California Corporation, ("Adobe"). This Agreement is effective as of February 26, 1991.

RECITALS

WHEREAS, the parties had entered into a Letter Agreement dated March 1, 1983, as amended from time to time (the "Letter Agreement").

WHEREAS, the parties desire to restate and amend the Letter Agreement in its entirety as set forth herein.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

1. DEFINITIONS

1.1 Adobe's Net Price. "Adobe's Net Price" means its list price at each level of distribution, exclusive of amounts received for taxes, interest, finance charges, insurance and shipping costs, less the amount of any credit for returns; provided, however, that when the Font Software or Bitmap Fonts licensed hereunder are offered by Adobe on the same terms and conditions as its other typefaces and such products are subject to uniform trade discounts, the Net Price shall be reduced by the amount of the discount applicable at each level of distribution.

1.2 Bitmap Font. "Bitmap Font" means digitally encoded machine readable data in bitmap form for a particular Typeface that requires a plurality of type sizes to reproduce each Typeface at different sizes and any Media on which such data may be recorded or transmitted.

1.3 Bundled Fonts. "Bundled Fonts" means Font Software offered as part of a product or system that includes Adobe Software, including but not limited to PostScript, Display PostScript, or Adobe Type Manager Software.

1.4 End User. "End User" means a direct or indirect customer of Adobe who obtains Bitmap Fonts or Font Software only for the display of Typefaces on Imaging Devices and not for resale, sublicense or other transfer to others in any manner.

1.5 Font Software. "Font Software" means the digitally encoded software in outline form for a particular Typeface consisting of the Typeface, metrics files, the screen display version of the Typeface, associated documentation, and any Media on which such software may be recorded or transmitted.

1.6 Imaging Device. "Imaging Device" means a system of hardware and/or software that processes Bitmap Fonts and/or Font Software to make visible the Typeface represented by such Fonts.

1.7 Medium. "Medium" means magnetic disks, floppy diskettes, hard disk drive, read-only memory, magnetic tape, or any other recording medium that can be used to store Font Software or Bitmap Fonts.

1.8 Screen Font. "Screen Font" means Bitmap Fonts and Font Software that are licensed solely for Use on (i) Temporary Imaging Devices and (ii) other Imaging Devices with a resolution of less than 180 dpi.

1.9 Temporary Imaging Device. "Temporary Imaging Device" means a type of Imaging Device that processes Bitmap Fonts or Font Software to make the Typeface represented by such fonts temporarily visible (an example is the display of a Typeface on a CRT).

1.10 Typeface. "Typeface" means a set of the letters of the alphabet, upper and/or lowercase, the numerals 0-9 and additional special characters and punctuation marks as may be offered by ITC in conjunction with such letters and numerals of a single typeface design. Each size of a weight or version of a single typeface design (such as Roman or Italic in an expanded or condensed or outline form, in 8 pt. or 12 pt. type, for example, but without limitation), will be considered a separate Typeface.

1.11 Use. "Use" of Font Software or Bitmap Fonts includes, without limitation, the End User's right to reproduce and display on an Imaging Device each Typeface (as well as to display electronically controlled changes of the scaling, rotation, condensation, extension, obliquing, reversal, tinting, shadowing, and/or outlining of such Typeface) contained in the Font Software or Bitmap Fonts. "Use" also includes the End User's storage and transmission of the Font Software or Bitmap Fonts electronically and storage and transmission of rasterized images or portions thereof produced by an Imaging Device.

2.

GRANT OF LICENSE.

2.1 Typefaces. Subject to all of the terms and conditions of this Agreement, ITC grants to Adobe a worldwide, non-exclusive, license to produce, personally, by wholly-owned subsidiaries, or by authorized ITC licensees, (with a right to sublicense in accordance with Paragraph 2.8) all existing and future ITC Typeface designs and, subject to the terms of the letter agreement between the parties of December 2, 1986, the Letraset typeface designs known as Aachen Bold, University Roman, Revue and Freestyle Script, which are, prior to their withdrawal from all Subscribers, selected by Adobe pursuant to the terms and conditions hereof, in the Font Software and Bitmap Fonts, and for the Products, all as listed and described on Schedule A annexed hereto. ITC also grants to Adobe the license to distribute or have distributed for its benefit (with the right to sublicense in accordance with Paragraph 2.8) such Font Software and Bitmap Fonts for Use by End Users, and for no other purpose. The foregoing notwithstanding, Adobe or any sublicensee hereunder may select any other firm or person to reproduce, for the benefit of either of them, Font Software and Bitmap Fonts produced pursuant to the terms and conditions of this agreement.

2.2 Limitations. Except as otherwise agreed to in writing, any Typefaces licensed by ITC may only be faithfully reproduced by Adobe without modification and only on its Font Software and Bitmap Fonts and for the Products, all as described and listed in Schedule "A", and only from artwork, drawings or digital data supplied by ITC or anyone who is a licensee of ITC or of an ITC Subscriber and Adobe shall not, directly or indirectly, produce, sell, or offer for sale, lease or otherwise dispose of any Typeface designs offered by ITC, regardless of whether they have or have not been licensed hereunder, to anyone in any manner except as explicit in all of the terms and conditions of this Agreement, nor shall Adobe create or offer to its customers any weight or version of a licensed ITC Typeface which is not available from ITC. Any such artwork or drawings will be furnished by ITC or an ITC authorized supplier in the form of positive or negative film or paper sheets at approximately 125 point size for text purposes and approximately 250 point sizes for display purposes. ITC acknowledges, however, that Adobe may offer to its customers Typefaces it developed or licensed from others, that are not available from ITC. ITC further agrees that Adobe shall not be precluded from using names to identify such independently developed or acquired typefaces even if ITC uses the same or a similar name for an ITC Typeface, so long as Adobe does not use the trademark "ITC" to refer to such typefaces. For example, Adobe may offer its independently developed Garamond typeface even though ITC offers an ITC Garamond typeface design.

2.3 Costs. ITC will bear the costs of preparing its Typeface artwork or drawings for use by Adobe.

2.4 Additional Characters. Adobe shall have the right to create and issue additional characters of each Typeface selected by Adobe under this Agreement, but which are not offered by ITC, provided that such additional characters are:

- (A) a combination of two or more characters supplied by ITC to Adobe under the terms of this Agreement;
- (B) non-typeface sensitive characters; or
- (C) typeface sensitive characters which have been presented to ITC for its approval and to which ITC has not objected in writing within 15 days of submission by Adobe.
- (D) All such additional characters shall be subject to all the terms and conditions of this Agreement.

2.5 Typeface Selection. During the term of this Agreement, Adobe shall have the right, but not the obligation, to select for license such Typefaces from amongst those that are generally offered by ITC to its customers. Such selections may be made only from the Typefaces that have been offered hereunder and have not thereafter been withdrawn or otherwise terminated by ITC and may be made by means of Adobe's purchase order forms. In the event of any variation between this Agreement and such orders, the terms of this Agreement shall prevail. The failure by ITC to object to any additional terms or conditions contained in said orders or its action with respect thereto shall not be deemed its confirmation or assent to such terms or conditions.

2.6 Trademarks. All Font Software and Bitmap Fonts containing Typefaces offered by ITC shall use the title, trademark, and/or trade name used by International Typeface Corporation to designate a particular Typeface, the copyright notice, if any, relating thereto and such other information as ITC may reasonably request and ITC grants Adobe a worldwide, non-exclusive license with respect thereto solely for the purpose of compliance with this paragraph. Adobe shall not, in any manner whatsoever, use any other name with respect to such Typefaces except that Adobe may, with subordinate prominence to such ITC title, trademark, trade name or other information, also use its own numbers or other identification to designate specific Typefaces sold by Adobe. For example, "ITC Souvenir Bold, Adobe AA 1355-5754, 28,000". The letters "ITC" when used by ITC in designating its Typefaces shall be considered part of the name of the typeface; for example "ITC Zapf Book Light" is the correct name of such Typeface. Adobe shall comply with all of the foregoing in its catalogues and all its advertising, packaging, and promotional materials relating to or including ITC Typefaces. Nothing in the foregoing paragraph shall preclude Adobe from filing for copyright registration for its Font Software, provided Adobe disclaims any copyright in the typeface characters generated by the Font Software.

2.7 Standards. Use of said title, trademarks and trade names by Adobe and its Sublicensees will be subject to compliance with laws and customs pertaining to the use of trade names and trademarks, and Adobe and its Sublicensees will use reasonable efforts to preserve ITC's rights in the trademarks. The use of such trademarks by Adobe or its Sublicensees will inure to the benefit of ITC. Whenever any trademark is used in advertising or any other publicity, Adobe and its Sublicensees must indicate the ownership of each such trademark. Adobe and its Sublicensees will only use such trademarks to identify Typefaces, Font Software, and Bitmap Fonts of a quality sufficient to meet ITC's reasonable standards. Adobe may furnish ITC with a sample of any Typeface, Font Software or Bitmap Font identified by such trademarks so as to enable ITC to confirm adherence to such standards and if ITC fails to object to such samples within ten days of their receipt, they shall be deemed to meet such standards.

2.8 Sublicensing.

(A) During, and for as long as, this Agreement remains in full force and effect, Adobe may sublicense Adobe customers (other than End Users) its right to reproduce, demonstrate and distribute Font Software and Bitmap Fonts, granted to it in Paragraph 2.1 above, to End Users.

(B) Each Sublicense Agreement for the Font Software and Bitmap Fonts must be in writing and must contain the substance of the following terms and conditions:

The provisions of 2.2, 2.6., 2.7, 2.8 and 6.1 of this Agreement (such provisions shall not require ITC's consent to Adobe customers' merger or other reorganization) and shall contain adequate audit provisions to verify the accuracy of the royalty payments and reports to Adobe with respect to each Sublicensee's transactions in ITC typefaces.

(C) Adobe may sublicense Adobe customers to sublicense their right to demonstrate and distribute Font Software and Bitmap Fonts to End Users to their customers and so on through the chain of distribution provided each such other customer enters into a written Sublicense Agreement with minimum terms equivalent to the terms referred to in Sections 2.8 (B), (C) and (D).

(D) Adobe agrees that it will, in its own name, take such action, and in such a manner, as ITC may reasonably request to enforce and monitor the performance of such Sublicensee's Agreement as it relates to ITC rights licensed hereunder or ITC may, at its option and at its expense, take such action in its own behalf.

3. ROALTIES AND PAYMENTS

3.1 Reports. Commencing with the date hereof, Adobe shall pay royalties and furnish ITC a statement within thirty (30) days after March 31, June 30, September 30, and December 31 of each year, setting forth the number of Enabled Font Software, Enabled Bitmap Fonts sublicensed, sold or otherwise transferred and the number of copies of Restricted Font Software and Restricted Bitmap Fonts which are Enabled, with the identity of each Enabled ITC Typeface thereon, itemized by the Products listed on Schedule A, for which each such Font Software or Bitmap Font was sublicensed, enabled, sold or otherwise transferred, the number and identity of ITC Typefaces on each such Font Software and Bitmap Font, during such quarter, and the total number and identity of all of such ITC Typefaces. Each such statement shall be accompanied by payment of all amounts due as royalties on each ITC Typeface sublicensed, enabled, sold or otherwise transferred during the period ending on such date. If no ITC Typefaces are sublicensed, enabled, sold, or otherwise transferred, the report shall so indicate.

3.2 Records. The records of Adobe shall be subject to examination during its usual business hours by an independent certified public accountant, at ITC's expense, to verify the accuracy of Adobe's accountings and payments and its performance of the terms and conditions of this Agreement. Such examination shall not occur more frequently than once a year and such certified public accountant shall first agree in writing to maintain the disclosed information in strict confidence and not to reveal such information to any party other than ITC or Adobe. Prompt adjustment will be made by the proper party to compensate for any errors or omissions revealed by such audit. ITC shall give Adobe at least 30 days prior written notice of any such examination.

3.3 Royalties.

(A) Adobe shall pay no royalty on sales or other transfers of ITC Typefaces to an ITC Subscriber whose agreements with ITC are in full force and effect but shall be liable to ITC for the royalties due thereon upon the sale or other transfer thereof by it to anyone else or by a Sublicensee to anyone.

(B) All royalties hereunder shall accrue upon shipment or sale (including license) of any Font Software or Bitmap Fonts. In the event Font Software or Bitmap Fonts are shipped or sold in such a manner that does not permit their use until enabled in a manner that is verifiable ("Restricted Font Software" and "Restricted Bitmap Fonts"), the royalties shall accrue upon the authorized enabling of their use at any time, by Adobe, its agents or Sublicensees, ("Enabled Font Software" and "Enabled Bitmap Fonts").

(C) No royalty will be due to ITC for Font Software or Bitmap Fonts used internally, for field testing or demonstration purposes, by Adobe, Adobe customers or their Sublicensees through the chain of distribution.

(D) Adobe customers that distribute Font Software bundled with Imaging Devices with a resolution greater than 810,000 pixels psi must execute a written agreement between such customer and ITC which sets forth any royalties due directly to ITC from the customer and, in such an event, Adobe shall not be liable to ITC for such royalties.

3.4 Release Dates. Each new Typeface design will be announced by ITC with an official release date. Adobe shall not release such Typeface designs prior to the official release date.

3.5 Output Capacity. Adobe agrees to distribute the Font Software and Bitmap Fonts for ITC Typefaces in such a manner that the intended typical use of the Font Software and Bitmap Fonts will not exceed the output capacity parameters set forth in Schedule A. Adobe further agrees to pay ITC the type royalties as listed in Schedule A, quarterly, for each ITC Typeface sublicensed, sold, enabled or otherwise transferred as herein set forth. Immaterial use by End Users which falls outside the parameters of Schedule A shall not constitute a breach of this Paragraph 3.5 ("Output Capacity"). Unless otherwise provided in this Agreement "or Schedule A", the royalties specified herein are based on the use of one Font Software or Bitmap Font for each printer or other output device and are not applicable to Products that alone or together with any other equipment may, at any time, drive more than one printer or other output device with a single Font Software or Bitmap Font or that are otherwise capable of supplying the data, or any part thereof, on a single Font Software or Bitmap Font to more than one printer or other output device. In the event Adobe desires, at any time, to add such Products to this Agreement, other arrangements may be available to do so. The foregoing notwithstanding, Adobe shall have no obligation to police the use of Font Software or Bitmap Fonts by the End Users.

3.6 Calculation. If more than one ITC Typeface is contained on one Font Software or Bitmap Font, the royalty fee shall be calculated separately and individually for each ITC typeface appearing thereon. In the event a Font Software or a Bitmap Font is sublicensed, enabled, sold or otherwise transferred for use for more than one Product (with each Product bearing a different royalty), Adobe shall pay the highest royalty applicable to such Products. Full royalty payments are due to ITC for each such rendition of an ITC Typeface on each Font Software or Bitmap Font. In the case of a royalty that is, in whole or in part, calculated as a percentage of Adobe's net price and Font Software or Bitmap Fonts containing an ITC Typeface is marketed by Adobe with other works as part of a software package or hardware system with a single price, Adobe's Net Price for calculating the royalty derived from the package or system will be determined by prorating the Net Price for the package or system to the Font Software or Bitmap Font according to the suggested retail prices or values established by Adobe for the separate items contained in the package or system, whether or not such items are marketed separately, provided that such prices or values are reasonably related to the values or marketing potentials of the separate items and are consistent with prices customarily charged in the industry. The royalty schedule shall be subject to modification but no royalty modification shall be retroactive for any ITC Typefaces previously offered by ITC, theretofore selected by Adobe and offered by it only on the Font Software and Bitmap Fonts for the Products listed on Schedule "A" prior to such modification.

3.7 New Fonts and Products. If there are Font Software, Bitmap Fonts or Products now offered for sale by Adobe or by its Sublicensees which are not listed on Schedule "A", it may not use ITC Typefaces thereon or therewith. If Adobe would like to make ITC Typefaces available for such Font Software, Bitmap Fonts or Products, it should contact ITC concerning the applicable royalties and obtain a written confirmation of such royalties. If Font Software, Bitmap Fonts or Products not now offered for sale by Adobe or its Sublicensee are offered for sale after the effective date of this Agreement, ITC shall be promptly notified thereof by Adobe and no ITC Typefaces shall be used thereon or therewith unless the royalty payments due thereon are agreed to in writing by ITC.

3.8 Adjustment.

(A) ITC may, only as hereinafter provided, adjust the fixed fee portion of any royalty payments due hereunder for all ITC Typefaces theretofore and thereafter issued by it, whether or not they were previously offered or selected hereunder, to reflect percentage changes in the United States Department of Labor Consumer Price Index for Urban Wage Earners and Clerical Workers (all items 1967 = 100) for New York, North Eastern New Jersey or such other Index similar thereto that may be in use during the term of this Agreement. Basis for calculation using said Consumer Price Index will be date of this Agreement.

(B) Such adjustment shall not be made for the first time until said price index shall have increased, cumulatively, by 25 percent from the date hereof or until 7.5 years have elapsed from the date hereof, whichever occurs sooner, and shall then only be made, if at all, upon 3 months prior written notice to Adobe.

(C) No more than one such adjustment of royalty payments shall be made, if at all, in any 5 year period [and shall be effective only so long as it is in effect for all ITC's Subscribers].

3.9 Waiver. No royalty is payable by Adobe, its Sublicensees or its ultimate end user customers for Typefaces marketed by ITC as part of the ITC Stone Typeface family.

4. PROPRIETARY RIGHTS

4.1 Rights and Authority

(A) ITC represents to Adobe that it has the right and authority to enter into this Agreement and to convey the rights granted in this Agreement. ITC further represents that it has no knowledge of any facts which might lead to a claim of infringement of any patent, copyright, trade secret, trademark or other proprietary right of any third party as a result of this Agreement or any acts contemplated by this Agreement.

(B) Adobe represents and warrants to ITC that it has the right and authority to enter into this Agreement and to perform the acts contemplated by this Agreement.

(C) ITC agrees to defend and hold Adobe, its Sublicensees and End Users harmless against any damages, expenses or losses incurred by any of them in any suit action, claim and/or proceeding arising out of or in connection with any claim, demand, action, or suit by a third party which claims a violation of ITC's above warranty. Adobe agrees to promptly notify ITC by registered mail of any such claim, demand, action, or suit by a third party which claims a violation of the above warranty or any other infringement and ITC shall determine what, if anything, shall be done on account thereof.

(D) All ITC Typefaces will remain at all times the sole and exclusive property of ITC, subject only to the rights granted herein. It is understood by Adobe that its rights are non-exclusive and that ITC grants rights to others at listed royalty rates not more favorable than those provided for herein.

5. TERM AND TERMINATION

5.1 Term. The term of this Agreement shall be for Fifteen (15) years from the date hereof and shall be automatically renewed from year to year thereafter unless either party gives at least ninety (90) days written notice prior to the termination of such initial period or renewal year of its election to terminate the same at the end of such initial period or any renewal year. In the event of termination hereunder, or otherwise, the provisions of Paragraph 5.2 hereof shall govern the rights of the parties.

5.2 Termination. ITC at its option may terminate this Agreement in the event Adobe shall fail to make any of the payments or accountings when due by this Agreement or fails to comply with or to perform any of the conditions or terms thereof after sixty (60) days written notice of such failure to comply or perform, or is the subject of any composition with creditors, assignment for their benefit, bankruptcy or arrangement proceeding or any other insolvency proceeding. In the event of such or any other termination of this Agreement, any rights ITC may have granted to Adobe under this Agreement shall forthwith revert to ITC. Upon termination, all original art supplied to Adobe by ITC shall be returned to ITC and all master fonts, artwork or any material which contain ITC Typefaces or from which ITC Typefaces can be made shall be destroyed by Adobe. It is understood, however, that upon any termination, Adobe shall have the right, subject to the terms and conditions hereof, to dispose of any Font Software and Bitmap Fonts on hand as of the date of any termination provided that Adobe shall give reasonable guarantees to ITC for the performance of all of the terms and conditions hereof and the payment of royalties hereunder on the sale thereof. The time period for such disposition of such Font Software and Bitmap Fonts shall not in any event extend beyond one year from the date of termination.

5.3 Rights After Termination. Adobe Customers may be entitled to obtain a license from ITC to continue reproducing, demonstrating and distributing Font Software, Bitmap Fonts and Screen Font Software at listed royalty rates substantially identical to those charged to Adobe by ITC at the time of termination. Adobe and each Adobe Customer may keep archival copies of each Font Software and Bitmap Font solely for maintenance purposes.

6. MISCELLANEOUS

6.1 Assignment. This Agreement and its Schedules contains the entire Agreement of the parties with respect to the subject matter thereof, supersedes prior Agreements between them on the same subject matter and shall be binding upon them and their respective successors as of the date hereof and may not be modified or terminated except in writing signed by both parties. Adobe may assign this Agreement to a third party who assumes all of the obligations thereof in writing, in the event of a merger or other reorganization in which Adobe is not the surviving entity. Except as herein otherwise specifically provided, neither this Agreement nor the ITC Typefaces nor any of the rights granted hereunder by ITC to Adobe may be assigned, transferred, leased or otherwise disposed of, directly or indirectly, by Adobe. No Sublicensees may be granted, directly or indirectly by Adobe (whatever the form of the transaction whether a sublicense, lease or otherwise) without the written consent of ITC, except for Sublicenses granted by Adobe pursuant to Paragraph 2.8.

6.2 Remedies. This Agreement is made in the City and State of New York and shall be governed by, and construed under, the laws of the State of New York. The remedies available to the parties to enforce this Agreement shall be cumulative and shall include equitable remedies. The failure to act upon any breach or default hereunder shall not be deemed a waiver or approval thereof nor shall the taking of any remedy be deemed a waiver of any other remedy available.

6.3 Notices. All notices or reports permitted or required under this Agreement, shall be in writing and shall be by personal delivery, telegram, telex, telecopier, facsimile transmission or by certified or registered mail, return receipt requested, and shall be deemed given upon personal delivery, five (5) days after deposit in the mail, or upon acknowledgement or receipt of electronic transmission. Notices shall be sent to the addresses set forth at the end of this Agreement or such other address as either party may specify in writing. All notices shall be sent to the President, with a copy to the General Counsel, of each of the parties.

6.4 Force Majeure. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages or any other cause which is beyond the reasonable control of such party.

6.5 Severability. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

6.6 No Agency. Nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties.

6.7 Headings. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such section or in any way affect this Agreement.

6.8 Warranty. Each party warrants that it has full power to enter into and perform this Agreement and the person signing this Agreement on its behalf has been duly authorized and empowered to enter into this Agreement. Each party further acknowledges that it has read this Agreement, understands it and agrees to be bound by it.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their respective officers, duly authorized. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

ITC:

INTERNATIONAL TYPEFACE
CORPORATION

By: _____
(Authorized
Signatory)

Printed
Name: MARK BATTY

Title: PRESIDENT AND CEO

Date: 5/2/91

Address:

2 Hammarskjold Plaza
New York, NY 10017

Attention: President

ADOBE:

ADOBE SYSTEMS INCORPORATED

By: Charles M. Geschke
(Authorized
Signatory)

Printed
Name: CHARLES M. GESCHEKE

Title: PRESIDENT

Date: 4/26/91

Address:

1585 Charleston Road
Mountain View, CA 94039

Attention: President

SCHEDULE A

Adobe agrees to pay royalties to ITC based on the output capacity of each of the Products and the Image Carrier for each Product listed below as follows. Adobe agrees to distribute the Font Software and Bitmap Fonts for ITC Typefaces in such a manner that the intended typical use of the Font Software and Bitmap Fonts will not exceed the output capacity parameters set forth in Schedule A. Immaterial use by End Users which falls outside the parameters of Schedule A shall not constitute a breach of this provision.

OUTPUT CAPACITY OF EACH ALPHABET ON EACH IMAGE CARRIER IN USE WITH EACH PRODUCT

<u>Product and Model Number</u>	<u>Font and Medium</u>	<u>Range of Point Sizes</u>	<u>Resolution</u>	<u>Style Variation(s)</u>	<u>Substrate</u>	<u>Maximum No. of Output Sizes From Each Alphabet on an Imaging Device</u>	<u>No. of Output Devices, Excluding Temporary Imaging Devices, Served By A Single Imaging Device</u>	<u>ITC Royalty</u>
Imaging Devices with the output capacity as indicated	On any Medium	Infinite	Not more than 810,000 pixels psi	Except for 35mm transparency, non-silver based		More than one	1-8 in a single building	1.2% of Adobe's Net Price or \$1.00, whichever is greater, for each Typeface (See Notes A,B,C,D,F)
Imaging Devices, including aftermarket font software, with the output capacity as indicated	On any Medium	Infinite	Unlimited			More than one	1-8 in a single building	1.8% of Adobe's Net Price or \$1.00, whichever is greater, for each Typeface (See Notes B,C,F)
Devices using screen fonts	On any Medium	Infinite	See Paragraph 1.8			N/A	N/A	10% of Adobe's Net Price (See Note E)
Imaging Devices, including aftermarket font software, with the output capacity as indicated	On any Medium	Infinite	Unlimited			More than one	1-8	18% of Adobe's Net Price or \$1.00, whichever is greater, for each Typeface (See Notes B,C,F)

Footnotes to Schedule A

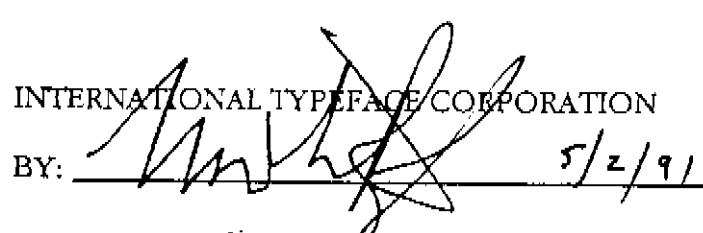
- A. In the event, and so long as, Bundled Fonts for a specific Imaging Device invariably and consistently contains at least one ITC Typeface, the royalty shall be \$1.00 for each Typeface on such Bundled Fonts for such Imaging Device.
- B. This Font may require a separate Screen Font. No royalty is payable for the ITC Alphabets on each Screen Font if, and so long as, royalties are paid on the same kind and number of Alphabets on a corresponding Font Software for the same piece of equipment.
- C. Additional terms and conditions concerning these royalties are contained in a separate letter of even date.
- D. As of the effective date of this Agreement, there is a volume discount program in effect, named ITC Quantity Discount Program for Low Resolution Bundled Fonts and dated January 1, 1989, applicable to this Product, and Adobe, upon compliance with all its terms and conditions, is eligible for the reduced royalties of such Program.
- E. The royalty payable for such royalty bearing Screen Fonts that are Bundled Fonts shall be the royalty provided in the schedule set forth in this footnote instead of said 10%. This alternative royalty is applicable to each designated portion of Adobe's sales of ITC Alphabets contained in such Screen Fonts that are Bundled Fonts as follows:

<u>Number of All ITC Alphabets Sold With Such Screen Fonts That Are Bundled Fonts Since The Execution of this Agreement</u>	<u>Royalty For Each ITC Alphabet Sold Within The Numerical Limits Indicated</u>
1-10,000	\$.50
10,000 - 100,000	\$.25
Above 100,000	\$.125

provided, however, that no royalty will be due for distribution of a Screen Font for an ITC Typeface to End Users of application software incorporating Display PostScript or Adobe Type Manager software from Adobe who submit to Adobe proof of purchase of an Imaging Device, used in relation to the same screen font, containing a PostScript interpreter which includes Font Software for the same ITC Typefaces.

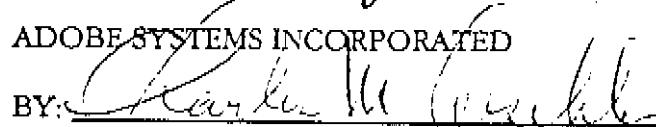
F. If any such Imaging Device may serve more than eight output devices, the royalty shall be increased by an amount, or amounts, equal to the royalty otherwise due, as provided on this schedule, for each additional eight output devices, or portion thereof, that may be served by the Imaging Device.

INTERNATIONAL TYPEFACE CORPORATION

BY: 

5/2/91

ADOBE SYSTEMS INCORPORATED

BY: 

4/30/91

Exhibit B



Adobe Systems
Incorporated

April 22, 1993

Mr. Allan Haley
International Typeface Corporation
2 Hammarskjold Plaza
New York, New York 10017

Re: *Print and View Font Software*
Electronic Shrinkwrap Agreements

Dear Allan;

This letter is to follow-up our conversations about two subjects - the subject of royalties for the Font Software for ITC typefaces distributed for printing and viewing only with products such as the new Acrobat product from Adobe, and the subject of using an electronic shrinkwrap license agreement.

Print and View. As you know, Adobe has technology which allows a user to create a document and distribute it electronically with the Font Software for ITC Typeface(s) included for viewing and printing purposes. The Adobe technology creates a document in which the information about the typeface is saved in the file for the document for the purpose of printing and viewing the document, but not for the purpose of accessing the Font Software for the Typeface or editing the document.

We request that we amend the Restated and Amended Typeface License Agreement to clarify that no royalty shall accrue, and no license shall be required, for creation or distribution of, or the grant of a license to create and distribute, whole or partial copies of Font Software which are saved in the file with the document for print and display purposes only. Font Software licensed for use to create or edit documents will, of course, still be subject to royalties.

Electronic Shrinkwrap License Agreement. We would also like to electronically distribute Font Software for ITC Typefaces to enable a user to create and edit documents with Adobe Technology. We request that we amend the Restated and Amended Typeface License Agreement to permit Adobe and Adobe's customers) to distribute Font Software and Bitmap Fonts electronically to End Users, provided that the End User License Agreement referenced in ¶2.8 is also distributed electronically with such programs and provided that the End User is required to acknowledge receipt of the End User License Agreement with a splash screen or some other mutually agreeable technique.



Mr. Allan Haley
International Typeface Corporation
April 22, 1993
Page 2

We would like to offer Font Software for ITC typefaces with Adobe products that will have such capabilities based on this understanding and commence using an electronic shrinkwrap license agreement with Font Software and Bitmap Fonts distributed electronically. Please indicate your agreement with these amendments by signing and dating both copies of this letter and returning one to my attention.

Best Regards,

A handwritten signature in black ink, appearing to read "Pat Ng-Haley".

Pat Ng-Haley
Type Account Manager

Agreed to by:

A handwritten signature in black ink, appearing to read "Allan Haley".

Allan Haley
Print Name

Executive VP

Title

5-17-93

Date

EXHIBIT C

AMENDMENT AGREEMENT

This Amendment Agreement, with an effective date of January 1, 1994 is made by and between Adobe Systems Incorporated ("Adobe"), and International Typeface Corporation, ("Licensor").

Adobe and Licensor wish to amend the Restated and Amended Typeface License Agreement, dated February 26, 1991, as amended, (the "Original Agreement") pursuant to which Adobe has certain rights and licenses with respect to certain coded font programs products for ITC Typefaces licensed from Licensor described on Schedule A of the Original Agreement (the "Coded Font Programs");

NOW, THEREFORE, the parties agree to amend the Original Agreement as follows with respect to the Coded Font Programs:

1.0 LICENSED UNITS LICENSING AND APPLICABLE ROYALTIES

1.1 Licensing Model. A "Licensed Unit" shall mean (i) up to five (5) computers and the nonvolatile memory of one (1) output device into which Coded Font Programs may be downloaded, or (ii) in the case of a license of the entire Adobe Typeface Library, up to fifteen (15) computers and the nonvolatile memory of two (2) output devices into which Coded Font Programs may be downloaded. Notwithstanding anything in the Original Agreement to the contrary, Adobe may describe the scope of use of licensed Coded Font Programs with reference to a number of Licensed Units or printers. Adobe may elect to calculate royalties on a Licensed Unit basis or a printer basis but only one royalty shall apply, even if Adobe provides duplicate sets of outlines and bitmaps for use by the printer and screen representations so long as such duplicate sets of outlines are in the same font scaling technology. The parties agree to negotiate in good faith the terms applicable to multi-resident fonts or fonts accessible by multiple interpreters within the product and will try to do so by June 15, 1994.

1.2 Licensed Unit Model. For Coded Font Programs licensed on a per Licensed Unit basis after January 1, 1994, including licenses granting entity or site licenses permitting use of an undesignated number of Licensed Units or a license consisting of a number of printers, the royalty shall be the greater of eighteen percent (18%) of Adobe's Net Price or the minimum stated below for each ITC Typeface. The applicable minimums shall be determined as follows:

For printer based licenses, the applicable minimum shall be \$1.00 per Typeface for the first licensed printer and \$0.08 per Typeface for each additional licensed printer.

For Licensed Unit based licenses, the applicable minimum royalty for each such Typeface shall be \$1.00 per Typeface for the first Licensed Unit and \$0.08 per Typeface for each additional Licensed Unit. An increase in the number of computers or output devices, in excess of the limits described in Paragraph 1.1 ("Licensing Model") above, shall

increase the number of Licensed Units. For instance, for licenses of less than the full library, consisting of twenty (20) computers and one (1) printer, the only applicable royalty would be eighteen percent (18%) or a minimum of \$1.24 and for such a license consisting of ten (10) computers and three (3) printers, the only applicable royalty would be eighteen percent (18%) or a minimum of \$1.16.

1.3 Bundled with an Adobe Product. This Amendment Agreement shall not change the royalties applicable to bundled fonts and shall not change the licensed scope of use of the fonts bundled with software in implementations by Adobe's OEMs. The parties agree to renegotiate and, where applicable negotiate, in good faith the royalties and licensing terms applicable to Coded Font Programs (regardless of format) bundled with an Adobe Product and will try to do so by June 15, 1994.

1.4 Full Library License. The royalties applicable to Adobe's Font Folio product shall be as set forth in the letter dated August 30, 1993, effective as of the date stated therein, the terms of which are incorporated herein by reference, however, the minimum royalty for licenses of the full library shall be determined as follows:

For printer based licenses of the entire library, the applicable minimum shall be \$0.75 per Typeface for the first licensed printer and \$0.06 per Typeface for each additional licensed printer.

For Licensed Unit based licenses, the applicable minimum royalty for each such Typeface shall be \$0.75 per Typeface for the first Licensed Unit and \$0.06 per Typeface for each additional Licensed Unit.

2.0 SUBLICENSING OF REPRODUCTION RIGHTS

Notwithstanding anything in the Original Agreement to the contrary, Adobe may sublicense its right to reproduce the Coded Font Programs to sublicensees through multiple tiers of distribution (with a signed license agreement that otherwise meets the requirements set forth in Paragraph 2.8(C) of the Original Agreement which shall also apply to sublicenses of reproduction rights through multiple tiers of distribution) and including to end users of the Coded Font Programs (whether or not through signed agreements).

3.0 NETWORK AND SITE LICENSES

Notwithstanding anything in the Original Agreement to the contrary, Adobe may license Coded Font Programs to multiple users or sites, whether or not on servers, over a local area, wide area, or other network.

4.0 SECONDARY COMPUTERS

Notwithstanding anything in the Original Agreement to the contrary, Adobe may permit the licensing of copies of Coded Font Programs used by a primary user

of a computer for use on such user's home, portable or other secondary personal computer, and output devices attached to such secondary computer of the primary user. No royalties shall accrue from such licensing to such secondary computer.

5.0 SERVICE BUREAUS

Notwithstanding anything in the Original Agreement, Adobe shall be entitled to permit end users of licensed Coded Font Programs to have files containing copies of such Coded Font Programs processed by commercial printers or other service bureaus, provided such service bureau informs the end user that it has purchased or been granted a license to use such coded font programs. No royalties shall accrue from the granting of such permission.

6.0 FONT EMBEDDING

If ITC grants any third party the right to create or distribute, or grant others the right to create and distribute, whole or partial copies of Coded Font Programs which are saved in the file with the document and which may be used to edit the document, without requiring royalties or an end user license, then Adobe shall be deemed to have the rights (only within the parameters expressly provided to others) to create and distribute, and grant other licenses to create and distribute, whole or partial copies of such Coded Font Programs, which are saved in the file with the document to edit, print and display the document, on the same terms.

7.0 ELECTRONIC LICENSES

Notwithstanding anything in the Original Agreement to the contrary, Adobe may license use of the Coded Font Programs to end users by electronic license agreements, whereby the end user indicates his acceptance of such license agreement by "clicking" on an indicated area of the computer screen, typing in a command, or a similar method.

8.0 EFFECT ON ORIGINAL AGREEMENT

This Amendment modifies and changes the terms of the Original Agreement and, to the extent of such modifications and changes, the terms of this Amendment shall supercede the Original Agreement. Otherwise, the terms of the Original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment
Agreement as of the date set forth above.

ADOBE:

ADOBE SYSTEMS INCORPORATED

David B. Rudd
Authorized Signature

David B. Rudd
Printed Name

Sr. Vice President
Title

4-1-94
Date

LICENSOR:

INTERNATIONAL TYPEFACE CORPORATION

Mark Batty
Authorized Signature

Mark Batty
Printed Name

President - CEO
Title

4-12-94
Date

Exhibit D

Adobe Systems Incorporated End-User License Agreement

PLEASE RETURN ACCOMPANYING REGISTRATION FORM TO RECEIVE REGISTRATION BENEFITS

For 1 Computer

NOTICE TO USER:

THIS IS A CONTRACT; PLEASE READ IT CAREFULLY. BY OPENING THIS PACKAGE YOU ACCEPT ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU WILL NOT BE ABLE TO USE THE SOFTWARE. IF YOU DO NOT ACCEPT THIS AGREEMENT AND HAVE PROOF OF PAYMENT, YOU MAY RETURN THE UNUSED SOFTWARE TO THE LOCATION AT WHICH YOU ACQUIRED IT WITHIN THIRTY (30) DAYS FOR A REFUND OF THE LICENSE FEE.

This Adobe Systems Incorporated ("Adobe") End-User License Agreement ("Agreement") sets forth the terms and conditions under which you are licensed to use the Software. Software means (A) all of the contents of the disk(s), CD-ROM(s), or other media with which this Agreement is provided, including but not limited to (i) Adobe or third-party software; (ii) digital images, stock photographs, clip art, or other artistic works ("Stock Files"); (iii) related explanatory written materials ("Documentation"); and (iv) fonts; and (B) modified versions, upgrades, updates, additions, and copies of the Software, if any, licensed to you by Adobe (collectively, "Updates"). The term "Permitted Number of Computers" means the number of computers indicated at the top of this Agreement. Adobe grants to you a nonexclusive license to use the Software, provided that you agree to the following:

1. Use of the Software.

- 1.1 You may install one copy of the Software onto a hard disk or other storage device of up to the Permitted Number of Computers.
- 1.2 You may install one copy of the Software on a single file server for the purpose of downloading and installing the Software onto a hard disk or other storage device of up to the Permitted Number of Computers that are on the same network as the file server. No other network use is permitted.
- 1.3 You may make one backup copy of the Software, provided your backup copy is not installed or used on any computer.
- 1.4 **HOME USE.** The primary user of each computer on which the Software is installed may also install the Software on one home computer. However, the Software may not be used on the home computer at the same time the Software on the primary computer is being used.
- 1.5 **STOCK FILES.** Unless stated otherwise in the Documentation, you may display, modify, reproduce, and distribute any of the Stock Files included with the Software. However, you may not distribute the Stock Files on a stand-alone basis, i.e., in circumstances in which the Stock Files constitute the primary value of the product being distributed. You should review the "Read Me" files associated with the Stock Files that you use to ascertain what rights you have with respect to such materials. Stock Files may not be used in the production of libelous, defamatory, fraudulent, infringing, lewd, obscene, or pornographic material or in any otherwise illegal manner. You may not register or claim any trademark rights in the Stock Files or derivative works thereof.
- 1.6 **FONT SOFTWARE.** If the Software includes font software, you may:
 - 1.6.1 Use the font software as described above on the Permitted Number of Computers and output such font software on any output devices connected to such computers.
 - 1.6.2 If the Number of Permitted Computers is five or fewer, download the font software to the memory (hard disk or RAM) of one output device connected to at least one of such computers for the purpose of having such font software remain resident in the output device, and of one additional such output device for every multiple of five represented by the Permitted Number of Computers.
 - 1.6.3 Take a copy of the font(s) you have used for a particular file to a commercial printer or other service bureau, and such service bureau may use the font(s) to process your file, provided such service bureau has a valid license to use that particular font software.
 - 1.6.4 Convert and install the font software into another format for use in other environments, subject to the following conditions: A computer on which the converted font software is used or installed shall be considered as one of your Permitted Number of Computers. Use of the font software you have converted shall be pursuant to all the terms and conditions of this Agreement, such font software may be used only for your own customary internal business or personal use, and such font software may not be distributed or transferred for any purpose, except in accordance with section 3 below.

2. **Copyright.** The Software and any copies that you make are owned by Adobe and its suppliers, and its structure, organization, and code are the valuable trade secrets of Adobe and its suppliers. The Software is also protected by United States Copyright Law and International Treaty provisions. You must treat the Software just as you would any other copyrighted material, such as a book. You may not copy the Software, except as set forth in the "Use of the Software" section. Any copies that you are permitted to make pursuant to this Agreement must contain the same copyright and other proprietary notices that appear on or in the Software. Except for font software converted to other formats as permitted in section 1.6.4, you agree not to modify, adapt, or translate the Software. You also agree not to reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code of the Software. Trademarks shall be used in accordance with accepted trademark practice, including identification of trademark owners' names. Trademarks can only be used to identify printed output produced by the Software and such use does not give you any rights of ownership in that trademark. Except as stated above, this Agreement does not grant you any intellectual property rights in the Software. This Agreement provides the terms and conditions under which you are licensed to use the Software. It is not an agreement for the sale of the Software to you.

3. **Transfer.** You may not rent, lease, sublicense, or lend the Software. You may, however, transfer all of your rights to use the Software to another person or legal entity provided (1) that you transfer this Agreement, the Software, including all copies, updates, and prior versions and all copies of font software converted to other formats, to such person or entity, (2) that you retain no copies, including copies stored on a computer, and (3) that the receiving party accepts the terms and conditions of this Agreement.

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ADOB

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

DOCKETED

NOV 15 2002

Civil Cover Sheet

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Plaintiff(s): INTERNATIONAL TYPEFACE CORPORATION

Defendant(s): ADOBE SYSTEMS INCORPORATED

County of Residence: Cook

County of Residence:

Plaintiff's Atty: Paul F. Stack
Stack & Filpi Chartered
140 S. Dearborn St. #411
Chicago, IL 60603
312-782-0690

Defendant's Atty:

II. Basis of Jurisdiction:

4. Diversity (complete item III)

02C 8256

III. Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: -2 Citizen of Another State
Defendant: -2 Citizen of Another State

JUDGE KENNELLY

IV. Origin:

1. Original Proceeding

V. Nature of Suit:

190 Other Contract

MAGISTRATE JUDGE LEVIN

VI. Cause of Action:

Breach of contract

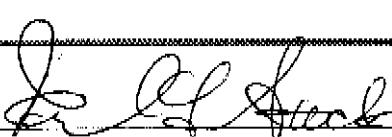
VII. Requested in Complaint

Class Action: No

Dollar Demand:

Jury Demand: Yes

VIII. This case IS NOT a refiling of a previously dismissed case.

Signature: 

Date: October 18, 2002

11/13/02

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the Back button in your browser and change it. Once correct, print this form, sign and date it and submit it with your new civil action. Note: You may need to adjust the font size

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Eastern Division

FILED-DOCKETED

In the Matter of

IS-C-U-6140-28 NOV 15 2002

INTERNATIONAL TYPEFACE CORPORATION

Plaintiff

v

ADobe SYSTEMS INCORPORATED

Defendant

U.S. DISTRICT COURT
Case Number

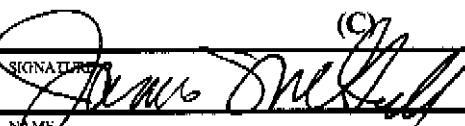
02-c-8256

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

Plaintiff, INTERNATIONAL TYPEFACE CORPORATION

JUDGE KENNELLY

MAGISTRATE JUDGE LEVIN

(A)		(B)			
SIGNATURE 		SIGNATURE 			
NAME Paul F. Stack		NAME Robert A. Filpi			
FIRM Stack & Filpi Chartered		FIRM Stack & Filpi Chartered			
STREET ADDRESS 140 S. Dearborn Street, Suite 411		STREET ADDRESS 140 S. Dearborn Street, Suite 411			
CITY/STATE/ZIP Chicago, Illinois 60603		CITY/STATE/ZIP Chicago, Illinois 60603			
TELEPHONE NUMBER (312) 782-0690		TELEPHONE NUMBER (312) 782-0690			
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 2698544		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 804444			
MEMBER OF TRIAL BAR?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	MEMBER OF TRIAL BAR?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
TRIAL ATTORNEY?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	TRIAL ATTORNEY?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
			DESIGNATED AS LOCAL COUNSEL?		
(C)		(D)			
SIGNATURE 		SIGNATURE			
NAME James A. McGurk		NAME			
FIRM Law Offices of James A. McGurk		FIRM			
STREET ADDRESS 140 S. Dearborn Street, Suite 411		STREET ADDRESS			
CITY/STATE/ZIP Chicago, Illinois 60603		CITY/STATE/ZIP			
TELEPHONE NUMBER (312) 236-8900		TELEPHONE NUMBER			
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 01846477		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)			
MEMBER OF TRIAL BAR?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	MEMBER OF TRIAL BAR?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
TRIAL ATTORNEY?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	TRIAL ATTORNEY?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
DESIGNATED AS LOCAL COUNSEL?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	DESIGNATED AS LOCAL COUNSEL?	YES <input type="checkbox"/>	NO <input type="checkbox"/>